

House Engrossed

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
Second Regular Session  
2008

# HOUSE BILL 2053

AN ACT

AMENDING SECTIONS 38-842 AND 38-853.01, ARIZONA REVISED STATUTES; RELATING TO  
THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 38-842, Arizona Revised Statutes, is amended to  
3 read:

4 38-842. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Accidental disability" means a physical or mental condition ~~which~~  
7 ~~THAT~~ the local board finds totally and permanently prevents an employee from  
8 performing a reasonable range of duties within the employee's job  
9 classification and ~~THAT~~ was incurred in the performance of the employee's  
10 duty.

11 2. "Accumulated contributions" means, for each member, the sum of the  
12 amount of the member's aggregate contributions made to the fund and the  
13 amount, if any, attributable to the employee's contributions prior to the  
14 member's effective date under another public retirement system, other than  
15 the federal social security act, and transferred to the fund minus the  
16 benefits paid to or on behalf of the member.

17 3. "Actuarial equivalent" means equality in present value of the  
18 aggregate amounts expected to be received under two different forms of  
19 payment, based on mortality and interest assumptions adopted by the fund  
20 manager. The fund manager may from time to time change the mortality and  
21 interest assumptions.

22 4. "Alternate payee" means the spouse or former spouse of a  
23 participant as designated in a domestic relations order.

24 5. "Alternate payee's portion" means benefits that are payable to an  
25 alternate payee pursuant to a plan approved domestic relations order.

26 6. "Average monthly benefit compensation" means the result obtained by  
27 dividing the total compensation paid to an employee during a considered  
28 period by the number of months, including fractional months, in which such  
29 compensation was received. The considered period shall be the three  
30 consecutive years within the last twenty completed years of credited service  
31 ~~which~~ ~~THAT~~ yield the highest average. In the computation under this  
32 paragraph a period of nonpaid or partially paid industrial leave shall be  
33 considered based on the compensation the employee would have received in the  
34 employee's job classification if the employee was not on industrial leave.

35 7. "Catastrophic disability" means a physical and not a psychological  
36 condition that the local board determines prevents the employee from totally  
37 and permanently engaging in any gainful employment and that results from a  
38 physical injury incurred in the performance of the employee's duty.

39 8. "Certified peace officer" means a peace officer certified by the  
40 Arizona peace officers standards and training board.

41 9. "Claimant" means any member or beneficiary who files an application  
42 for benefits pursuant to this article.

43 10. "Compensation" means, for the purpose of computing retirement  
44 benefits, base salary, overtime pay, shift differential pay and holiday pay  
45 paid to an employee by the employer on a regular monthly, semimonthly or

1 biweekly payroll basis and longevity pay paid to an employee at least every  
2 six months for which contributions are made to the system pursuant to section  
3 38-843, subsection D. Compensation does not include, for the purpose of  
4 computing retirement benefits, payment for unused sick leave, payment in lieu  
5 of vacation, payment for compensatory time or payment for any fringe  
6 benefits. For the purposes of this paragraph, "base salary" means the amount  
7 of compensation each employee is regularly paid for personal services  
8 rendered to an employer before the addition of any extra monies, including  
9 overtime pay, shift differential pay, holiday pay, longevity pay, fringe  
10 benefit pay and similar extra payments.

11 11. "Credited service" means the member's total period of service prior  
12 to the member's effective date of participation, plus those compensated  
13 periods of the member's service thereafter for which the member made  
14 contributions to the fund.

15 12. "Cure period" means the ninety-day period in which a participant or  
16 alternate payee may submit an amended domestic relations order and request a  
17 determination, calculated from the time the system issues a determination  
18 finding that a previously submitted domestic relations order did not qualify  
19 as a plan approved domestic relations order.

20 13. "Depository" means a bank in which all monies of the system are  
21 deposited and held and from which all expenditures for benefits, expenses and  
22 investments are disbursed.

23 14. "Determination" means a written document that indicates to a  
24 participant and alternate payee whether a domestic relations order qualifies  
25 as a plan approved domestic relations order.

26 15. "Determination period" means the ninety-day period in which the  
27 system must review a domestic relations order that is submitted by a  
28 participant or alternate payee to determine whether the domestic relations  
29 order qualifies as a plan approved domestic relations order, calculated from  
30 the time the system mails a notice of receipt to the participant and  
31 alternate payee.

32 16. "Domestic relations order" means an order of a court of this state  
33 that is made pursuant to the domestic relations laws of this state and that  
34 creates or recognizes the existence of an alternate payee's right to, or  
35 assigns to an alternate payee the right to, receive a portion of the benefits  
36 payable to a participant.

37 17. "Effective date of participation" means July 1, 1968, except with  
38 respect to employers and their covered employees whose contributions to the  
39 fund commence thereafter, the effective date of their participation in the  
40 system is as specified in the applicable joinder agreement.

41 18. "Effective date of vesting" means the date a member's rights to  
42 benefits vest pursuant to section 38-844.01.

43 19. "Eligible child" means the unmarried child of a deceased member who  
44 is under the age of eighteen or a full-time student who is under the age of  
45 twenty-three or under a disability ~~which~~ THAT began before the child attained

1 the age of twenty-three and who remains a dependent of the surviving spouse  
2 or guardian.

3 20. "Eligible groups" means only the following who are regularly  
4 assigned to hazardous duty:

5 (a) Municipal police officers who are certified peace officers.

6 (b) Municipal fire fighters.

7 (c) Paid full-time fire fighters employed directly by a fire district  
8 organized pursuant to section 48-803 or 48-804 with three or more full-time  
9 fire fighters, but not including fire fighters employed by a fire district  
10 pursuant to a contract with a corporation.

11 (d) State highway patrol officers who are certified peace officers.

12 (e) State fire fighters.

13 (f) County sheriffs and deputies who are certified peace officers.

14 (g) ~~Fish and~~ game AND FISH wardens who are certified peace officers.

15 (h) Police officers who are certified peace officers and fire fighters  
16 of a nonprofit corporation operating a public airport pursuant to sections  
17 28-8423 and 28-8424. A police officer shall be designated pursuant to  
18 section 28-8426 to aid and supplement state and local law enforcement  
19 agencies and a fire fighter's sole duty shall be to perform fire fighting  
20 services, including services required by federal regulations.

21 (i) Police officers who are certified peace officers and who are  
22 appointed by the Arizona board of regents.

23 (j) Police officers who are certified peace officers and who are  
24 appointed by a community college district governing board.

25 (k) State attorney general investigators who are certified peace  
26 officers.

27 (l) County attorney investigators who are certified peace officers.

28 (m) Police officers who are certified peace officers and who are  
29 employed by an Indian reservation police agency.

30 (n) Fire fighters who are employed by an Indian reservation fire  
31 fighting agency.

32 (o) Police officers who are certified peace officers and who are  
33 appointed by the department of administration.

34 (p) Department of liquor licenses and control investigators who are  
35 certified peace officers.

36 (q) Arizona department of agriculture officers who are certified peace  
37 officers.

38 (r) Arizona state parks board rangers and managers who are certified  
39 peace officers.

40 (s) County park rangers who are certified peace officers.

41 21. "Employee" means any person who is employed by a participating  
42 employer and who is a member of an eligible group but does not include any  
43 persons compensated on a contractual or fee basis. If an eligible group  
44 requires certified peace officer status and at the option of the local board,

1 employee may include a person who is training to become a certified peace  
2 officer.

3 22. "Employers" means:

4 (a) Cities contributing to the fire fighters' relief and pension fund  
5 as provided in sections 9-951 through 9-971 or statutes amended thereby and  
6 antecedent thereto, as of June 30, 1968 on behalf of their full-time paid  
7 fire fighters.

8 (b) Cities contributing under the state police pension laws as  
9 provided in sections 9-911 through 9-934 or statutes amended thereby and  
10 antecedent thereto, as of June 30, 1968 on behalf of their municipal  
11 policemen.

12 (c) The state highway patrol covered under the state highway patrol  
13 retirement system.

14 (d) The state, or any political subdivision ~~thereof~~ OF THIS STATE,  
15 including ~~but not limited to~~ towns, cities, fire districts, counties and  
16 nonprofit corporations operating public airports pursuant to sections 28-8423  
17 and 28-8424, ~~which~~ THAT has elected to participate in the system on behalf of  
18 an eligible group of public safety personnel pursuant to a joinder agreement  
19 entered into after July 1, 1968.

20 (e) Indian tribes ~~which~~ THAT have elected to participate in the system  
21 on behalf of an eligible group of public safety personnel pursuant to a  
22 joinder agreement entered into after July 1, 1968.

23 23. "Fund" means the public safety personnel retirement fund, which is  
24 the fund established to receive and invest contributions accumulated under  
25 the system and from which benefits are paid.

26 24. "Fund manager" means the fund manager of the system, who are the  
27 persons appointed to invest and operate the fund.

28 25. "Local board" means the retirement board of the employer, who are  
29 the persons appointed to administer the system as it applies to their members  
30 in the system.

31 26. "Member" means any employee who meets all of the following  
32 qualifications:

33 (a) Who is either a full-time paid municipal police officer, a  
34 full-time paid fire fighter, a law enforcement officer who is employed by ~~the~~  
35 THIS state including the director thereof, a state fire fighter who is  
36 primarily assigned to fire fighting duties, a fire fighter or police officer  
37 of a nonprofit corporation operating a public airport pursuant to sections  
38 28-8423 and 28-8424, all ranks designated by the Arizona law enforcement  
39 merit system council, a state attorney general investigator who is a  
40 certified peace officer, a county attorney investigator who is a certified  
41 peace officer, a police officer who is appointed by the department of  
42 administration and who is a certified peace officer, a department of liquor  
43 licenses and control investigator who is a certified peace officer, an  
44 Arizona department of agriculture officer who is a certified peace officer,  
45 an Arizona state parks board ranger or manager who is a certified peace

1 officer, a county park ranger who is a certified peace officer, a person who  
2 is a certified peace officer and who is employed by an Indian reservation  
3 police agency, a fire fighter who is employed by an Indian reservation fire  
4 fighting agency or an employee included in a group designated as eligible  
5 employees under a joinder agreement entered into by their employer after July  
6 1, 1968 and who is or was regularly assigned to hazardous duty.

7 (b) Who, on or after the employee's effective date of participation,  
8 is receiving compensation for personal services rendered to an employer or  
9 would be receiving compensation except for an authorized leave of absence.

10 (c) Whose employment with an employer commenced prior to attainment of  
11 age fifty.

12 (d) Whose customary employment is at least forty hours per week and  
13 for more than six months in a calendar year.

14 (e) Who has not attained age sixty-five prior to the employee's  
15 effective date of participation or who was over age sixty-five with  
16 twenty-five years or more of service prior to the employee's effective date  
17 of participation.

18 27. "Normal retirement date" means the first day of the calendar month  
19 immediately following an employee's completion of twenty years of service or  
20 the employee's sixty-second birthday and the employee's completion of fifteen  
21 years of service.

22 28. "Notice of receipt" means a written document that is issued by the  
23 system to a participant and alternate payee and that states that the system  
24 has received a domestic relations order and a request for a determination  
25 that the domestic relations order is a plan approved domestic relations  
26 order.

27 29. "Ordinary disability" means a physical condition ~~which~~ THAT the  
28 local board determines will prevent an employee totally and permanently from  
29 performing a reasonable range of duties within the employee's department or a  
30 mental condition ~~which~~ THAT the local board determines will prevent an  
31 employee totally and permanently from engaging in any substantial gainful  
32 activity.

33 30. "Participant" means a member who is subject to a domestic relations  
34 order.

35 31. "Participant's portion" means benefits that are payable to a  
36 participant pursuant to a plan approved domestic relations order.

37 32. "Pension" means a series of monthly amounts ~~which~~ THAT are payable  
38 to a person who is entitled to receive benefits under the plan.

39 33. "Personal representative" means the personal representative of a  
40 deceased alternate payee.

41 34. "Plan approved domestic relations order" means a domestic relations  
42 order that the system approves as meeting all the requirements for a plan  
43 approved domestic relations order as otherwise prescribed in this article.

44 35. "Regularly assigned to hazardous duty" means regularly assigned to  
45 duties of the type normally expected of municipal police officers, municipal

1 or state fire fighters, eligible fire district fire fighters, state highway  
 2 patrol officers, county sheriffs and deputies, fish and game wardens, fire  
 3 fighters and police officers of a nonprofit corporation operating a public  
 4 airport pursuant to sections 28-8423 and 28-8424, police officers who are  
 5 appointed by the Arizona board of regents or a community college district  
 6 governing board, state attorney general investigators who are certified peace  
 7 officers, county attorney investigators who are certified peace officers,  
 8 police officers who are appointed by the department of administration and who  
 9 are certified peace officers, department of liquor licenses and control  
 10 investigators who are certified peace officers, Arizona department of  
 11 agriculture officers who are certified peace officers, Arizona state parks  
 12 board rangers and managers who are certified peace officers, county park  
 13 rangers who are certified peace officers, police officers who are certified  
 14 peace officers and WHO are employed by an Indian reservation police agency or  
 15 fire fighters who are employed by an Indian reservation fire fighting  
 16 agency. Those individuals who are assigned solely to support duties such as  
 17 secretaries, stenographers, clerical personnel, clerks, cooks, maintenance  
 18 personnel, mechanics and dispatchers are not assigned to hazardous duty  
 19 regardless of their position classification title. Since the normal duties  
 20 of ~~municipal police officers, municipal or state fire fighters, eligible fire~~  
 21 ~~district fire fighters, state highway patrol officers, county sheriffs and~~  
 22 ~~deputies, fish and game wardens, fire fighters and police officers of a~~  
 23 ~~nonprofit corporation operating a public airport pursuant to sections 28-8423~~  
 24 ~~and 28-8424, police officers who are appointed by the Arizona board of~~  
 25 ~~regents or a community college district governing board, state attorney~~  
 26 ~~general investigators who are certified peace officers, county attorney~~  
 27 ~~investigators who are certified peace officers, police officers who are~~  
 28 ~~appointed by the department of administration and who are certified peace~~  
 29 ~~officers, department of liquor licenses and control investigators who are~~  
 30 ~~certified peace officers, Arizona department of agriculture officers who are~~  
 31 ~~certified peace officers, Arizona state parks board rangers and managers who~~  
 32 ~~are certified peace officers, county park rangers who are certified peace~~  
 33 ~~officers, police officers who are certified peace officers and are employed~~  
 34 ~~by an Indian reservation police agency and fire fighters who are employed by~~  
 35 ~~an Indian reservation fire fighting agency~~ THOSE JOBS DESCRIBED IN THIS  
 36 PARAGRAPH are constantly changing, questions as to whether a person is or was  
 37 previously regularly assigned to hazardous duty shall be resolved by the  
 38 local board on a case-by-case basis. Resolutions by local boards are subject  
 39 to rehearing and appeal.

40 36. "Retirement" means termination of employment after a member has  
 41 fulfilled all requirements for a pension. Retirement shall be considered as  
 42 commencing on the first day of the month immediately following a member's  
 43 last day of employment or authorized leave of absence, if later.

44 37. "Segregated funds" means the amount of benefits that would  
 45 currently be payable to an alternate payee pursuant to a domestic relations

1 order under review by the system, or a domestic relations order submitted to  
2 the system that failed to qualify as a plan approved domestic relations  
3 order, if the domestic relations order were determined to be a plan approved  
4 domestic relations order.

5 38. "Service" means the last period of continuous employment of an  
6 employee by the employers prior to the employee's retirement or the  
7 employee's sixty-fifth birthday, whichever first occurs, except that if such  
8 period includes employment during which the employee would not have qualified  
9 as a member had the system then been effective, such as employment as a  
10 volunteer fire fighter, then only twenty-five per cent of such noncovered  
11 employment shall be considered as service. Any absence ~~which~~ THAT is  
12 authorized by an employer shall not be considered as interrupting continuity  
13 of employment if the employee returns within the period of authorized  
14 absence. Transfers between employers also shall not be considered as  
15 interrupting continuity of employment. Any period during which a member is  
16 receiving sick leave payments or a temporary disability pension shall be  
17 considered as service. ~~NOTWITHSTANDING ANY OTHER PROVISION OF THIS~~  
18 ~~PARAGRAPH, any period during which a person was employed as a full-time paid~~  
19 ~~fire fighter by a fire district pursuant to a contract with a corporation~~  
20 ~~within that fire district FOR A CORPORATION THAT CONTRACTED WITH AN EMPLOYER~~  
21 ~~TO PROVIDE FIRE FIGHTING SERVICES ON BEHALF OF THE EMPLOYER shall be~~  
22 ~~considered as service if it is part of the person's last period of continuous~~  
23 ~~employment with that corporation in that fire district and the fire district~~  
24 ~~EMPLOYER has elected AT ITS OPTION to treat PART OR ALL OF the period THE~~  
25 ~~FIRE FIGHTER WORKED FOR THE COMPANY as service in its applicable joinder~~  
26 ~~agreement. Any reference in this system to the number of years of service of~~  
27 ~~an employee shall be deemed to include fractional portions of a year.~~

28 39. "State" means the state of Arizona, including any department,  
29 office, board, commission, agency or other instrumentality of the state.

30 40. "System" means the public safety personnel retirement system  
31 established by this article.

32 41. "Temporary disability" means a physical or mental condition ~~which~~  
33 ~~THAT~~ the local board finds totally and temporarily prevents an employee from  
34 performing a reasonable range of duties within the employee's department and  
35 ~~which~~ ~~THAT~~ was incurred in the performance of the employee's duty.

36 Sec. 2. Section 38-853.01, Arizona Revised Statutes, is amended to  
37 read:

38 38-853.01. Redemption of prior service

39 A. Each present active member of the system ~~who had previous~~ MAY ELECT  
40 TO REDEEM ANY PART OF THE FOLLOWING PRIOR SERVICE OR EMPLOYMENT BY PAYING  
41 INTO THE SYSTEM ANY AMOUNTS REQUIRED UNDER SUBSECTION B IF THE PRIOR SERVICE  
42 OR EMPLOYMENT IS NOT ON ACCOUNT WITH ANY OTHER RETIREMENT SYSTEM:

43 1. ~~PRIOR~~ service in this state as an employee with an employer now  
44 covered by the system or ~~had previous~~ ~~PRIOR~~ service with an agency of the  
45 United States government, a state of the United States or a political



1 subdivision of a state of the United States as a full-time paid firefighter  
2 or full-time paid certified peace officer ~~may elect to redeem any part of the~~  
3 ~~prior service by paying into the system any amounts required under subsection~~  
4 ~~B if the prior service is not on account with any other retirement system.~~

5 2. SUBJECT TO ANY LIMITATIONS PRESCRIBED BY FEDERAL LAW, PRIOR  
6 EMPLOYMENT AS AN EMPLOYEE WITH A CORPORATION THAT CONTRACTED WITH AN EMPLOYER  
7 NOW COVERED BY THE SYSTEM TO PROVIDE FIREFIGHTING SERVICES ON BEHALF OF THAT  
8 EMPLOYER AS A FULL-TIME PAID FIREFIGHTER.

9 B. Any present active member who elects to redeem any part of the  
10 prior service OR EMPLOYMENT for which the employee is deemed eligible by the  
11 fund manager under this section shall pay into the system the amounts  
12 previously withdrawn by the member, if any, as a refund of the member's  
13 accumulated contributions plus accumulated interest as determined by the fund  
14 manager and the additional amount, if any, computed by the system's actuary  
15 which is necessary to equal the increase in the actuarial present value of  
16 projected benefits resulting from the redemption calculated using the  
17 actuarial methods and assumptions prescribed by the system's actuary.

18 Sec. 3. Amendment or execution of joinder agreement

19 If an employer in the public safety personnel retirement system elects  
20 to include its fire fighters who have prior service working as a fire fighter  
21 for a corporation that contracted with an employer to provide fire fighting  
22 services as part of its eligible group, the employer shall amend the joinder  
23 agreement with the fund manager of the public safety personnel retirement  
24 system or execute a joinder agreement if the employer entered the system on  
25 July 1, 1968.